7-14-09 Full Committee updates

(This document is pulled from a larger document and reflects only a portion of the Mental Health Advocate duties.)

ADVOCATE CASE OVERSIGHT*

All advocate actions on behalf of a client must have a legal basis or reference. The overarching intent of the position is to make sure no one is held under legal commitment any longer than is necessary. Advocates also work to ensure that persons under commitment are afforded all of their legal rights and that they are maintained in the least restrictive settings possible. Because commitment does not equal incompetence, clients are mentored by their advocates to learn and maintaining their own legal rights during the entire time of their commitment. Clients are to be treated with respect and dignity. They also are by law to be free of maltreatment. It should be emphasized that the advocate's job is not about ensuring that the best interest of the client are met, but legal rights and interests of clients are assured. This is often the underlying cause of most disagreements between an advocate and case manager.

Because of the nature of humans and mental illness this document is not intended to be a complete recitation of all possibilities of actions. As laws change, new court decisions are issued, and advocates continue to face the ever creative nature of humans to circumvent rules and laws, the advocate should be flexible and adapt to situations as they arise.

Example Chart (caution, this is not fully comprehensive) of comparison and contrasts between Patient Advocate and Title 19 Case Manager <u>when both are assigned to a case</u> (Note: county case managers and county social workers are not included in this example.)

Advocate	**Title 19 Case Manager**
1. First contact made within 5 days of hearing	-First meeting follows referral
2. Face to face contact within 15 days of hearing	-Face to face contact at least every 3 months
3. Unlimited case load	-Case load of 45 by law
4. Other contacts as needed	-Other contacts as needed
5. Contact with collaterals as needed	-Contact with collaterals monthly
6. Court ordered to exercise advocate duties on all committed patients	-Assigned case when referral is made and fits county funding guidelines and has Title 19
7. Court ordered involuntarily to client for oversight and judicial review	-Clients voluntarily accept/request and terminate case management
8. Contact agencies as to appropriateness	-Refer, monitor and coordinate

and fact gathering for appropriate alternatives(least restrictive, etc.)	funding and services
9. * Patient Advocate continually works for client's legal rights and commitment rights	-*Advocates for best interest of client thru service.

* (This is a big philosophical difference)

10. Paperwork –contact and progress notes, quarterly reports, monitor orders	-Paperwork – progress notes, annual assessment, ICP and social history
11. Appeal decision of case manager and/or CPC thru courts	-Challenge funding decision of CPC
12. Runs concurrently with case manager	-Runs concurrently with advocate
13. Be a source of info on commitments and rights issues	-Be a source of info on services and funding
14. Covers clients in state hospitals, including MHI	-No service while in state hospitals, including MHI
15. Concerned with abuse and neglect rights and issues	-Concerned with abuse and neglect rights and issues
16. Direct access to an attorney and court actions	-No direct access to attorney and court actions

This is not an exhaustive list but merely an example listing for illustrations of how the two positions are alike and different. It is anticipated in most instances that both positions will be working toward many of the same ends together. It cannot be over emphasized that the advocate is monitoring for the gambit of legal rights of the client and not limited to treatment issues. It is not intended however that the advocate must agree with the case manager's decisions when it comes to the legal perspectives of treatment while under commitment. Therefore, it may become necessary to work on the client's behalf in opposition to case managers.

E. Advocate Case Coordination with or without case managers

1. When a case manager is not assigned, make referral to targeted case management or county case management or social worker if necessary
    a.) Ask client, hospital, CPC if a case manager is assigned

b.) Evaluate as soon as practical following hearing if further services are possibly necessary
1.)Client may request assistance in acquiring services
2.)Hospital personnel may identify necessity for services or assistance
3.)Number of commitments may signal to you that services would be helpful
c.) Verify county residence and legal settlement when possible
d.) Verify minimal info to determine if county funding is appropriate or necessary
e.) Make referral to CPC or case management as identified with county information and guidelines thru county plan

2. When case manager is assigned
   a.) All advocate primary duties run concurrently
   b.) Be a liaison between the client and case manager
   c.) Encourage and assist case managers to work toward least restrictive services
   e.) Assure that services received are appropriate and not violating any rights
   f.) May appeal funding or case manager decisions
   g.) Attend team meetings as necessary to carry out advocate duties
3. When the first two situations do not apply
   a.) Be available for information and referral to community and state services clients are eligible to obtain
   b.) All primary duties

4. Most clients on your case load will not have a case manager

5. Clients in state hospitals will not have Title 19 case manager coverage but may have a county case management worker or county social worker.

One of the often questioned and discussed concerns about advocates is the differences in roles between the mental health advocate (Iowa Code 229.19) and a case manager. Further complicating the understanding of these differences is that there are Title 19 Case Managers, County Case Managers, and County Social Workers.

A new advocate should become familiar with what case management services are provided by the individual county served. Title 19 Case Managers activities and requirements are covered by specific state medicaid administrative rules and laws. The advocate should acquire a working knowledge of what the general purpose and functions of Title 19 Case Manager or identify a person or persons that will be a reliable source of such knowledge for answering questions as they arise. It is worth mentioning that most,

but not all, Title 19 case management is provided by the Department of Human Services and the CPC thru county case management. Title 19 case management can be provided by other entities such as a mental health center. They are bound by the same administrative rules and state laws.

Because county case managers and county social workers are not funded by Title 19 monies they are not bound by the rules and state laws of Title 19. New advocates should spend time with their individual county CPC and get a good working knowledge of what the general purpose and functions these county employed individuals provide to the clients of the respective county.

In general the case managers provide the entrance and need for ongoing public funded services and treatments thru an audit of needs, referrals, request for funding and treatment goal setting.

If a case Title 19 Case Manager, County Case Manager or County Social Worker is provided for an advocate's client, those duties should generally not be provided by the Mental Health Advocate. If our clients do not have a case manager and fits the criteria for one, the advocate should make the referral when and where appropriate (usually thru CPC). If no case manager is available the advocate assumes some of the similar activities on behalf of their clients. **The majority of an advocate's clients does not have a case manager.**

The advocate's role while their clients are under case management runs concurrent with the case manager's duties. All duties described by law, job description, and best practices are still carried out by the advocate.

On those occasions when the Case Manager and client do not communicate well or the client feels he/she is not being heard, the Mental Health Advocate acts as a mediator or communicates the clients concerns. It is the Advocates job to make sure the client gets all their legal rights under any treatment circumstances. Further the Advocate may not agree with the position of the Case Manager and can use means available to them to correct inappropriate decisions of rights situations. For instance, there are requirements of the Advocate to make sure the client is in the least restrictive services, has preserved autonomy rights and guardians or physicians do not overstep their authorities.

The advocate should strive to have a good working relationship with the case manager but has an obligation on behalf of their clients to take action if the case manager fails to perform their duties. Superiors can be contacted, court action, or other necessary measures can be taken.

It is the Advocates responsibilities to let clients under case management know their legal rights even if at odds with the positions of case managers, providers or judicial officers.

The Advocate may need to provide information to the client, case manager, physician, attorney, etc. in appealing the funding of services decisions. Consult your individual county management plan for the process of appeal. You may wish to refer the client to an attorney or legal services for final judicial review.

Generally the Advocate and Case Manager should be working in tandem for the client's progress towards treatment success and quality of life. In order to have a working knowledge of a client's present circumstances while under case management, the advocate should attend team meetings as necessary to **understand the present need for ongoing deprivation of liberties thru treatment restrictions**.

Treatment restrictions thru judicial order from most to least are generally as follows:

Hospitalization
Emergency Hospitalization
Alternative Placement(RCF, ICF, etc.)
Outpatient Commitment with Alternative Placement
Outpatient Commitment with ordered Injections
Outpatient Commitment
No Commitment

The advocate's ultimate goal should be to assist the client toward their goals and termination of commitment thru successful treatment progress under the auspices of the law.